



EXECUTIVE CHAMBERS

HONOLULU

NEIL ABERCROMBIE
GOVERNOR

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair

HOUSE COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

February 22, 2012
2:00 p.m. Room 325

Support & Comments on HB 1957, HD 1
Relating to Health Care Information
Presented by Beth Giesting, Healthcare Transformation Coordinator

Chairs Herkes and Keith-Agaran, members of the Committees on Consumer Protection & Commerce and on Judiciary, the Office of the Governor is in support of House Bill 1957, Relating to the Health Care Information.

We find that transforming the quality and sustainability of our health care system hinges on our effective use of Health Information Technology tools that include electronic health records and health information exchange. The appropriate exchange of health information is a critical factor for reducing system fragmentation; costly, dangerous duplication of services and decision-making and treatment delays. Its effective use will result in higher quality, increased patient and provider satisfaction, and lower costs.

The welter of conflicting rules and regulations related to exchange paralyze providers with concerns about unintentional breaches of the law. Accordingly, we will greatly increase provider participation in exchange activities if we simply rely on federal law as the sole arbiter for privacy, exchange, and notification.

Thank you for the opportunity to offer our support for this essential regulatory change.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
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KEALI'I S. LOPEZ
DIRECTOR

TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE
AND JUDICIARY

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Wednesday, February 22, 2012
2 p.m.

WRITTEN TESTIMONY ONLY

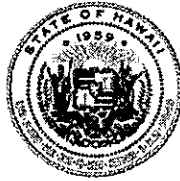
**TESTIMONY ON HOUSE BILL NO. 1957, H.D.1 – RELATING TO HEALTH CARE
INFORMATION.**

TO THE HONORABLE ROBERT N. HERKES AND GILBERT S.C. KEITH-AGARAN,
CHAIRS, AND MEMBERS OF THE COMMITTEES:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department takes no position on this bill which was amended by deleting the provision that states that any notification of breach of unsecured protected health information provided in accordance with HIPAA regulations regarding notification of breach of unsecured protected health information under 45 CFR, Part 164, Subpart D, is deemed compliant with all state laws and rules governing notice of breach of protected health information.

The regulation contemplated by this bill is not insurance regulation.

We thank the Committee for the opportunity to present testimony on this matter.



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**TESTIMONY ON HOUSE BILL NO. 1957, H.D.1 – RELATING TO HEALTH CARE
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The regulation contemplated by this bill is not insurance regulation.

We thank the Committee for the opportunity to present testimony on this matter.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House of Representatives, Committee on Health

H.B. No. 1957 H.D. 1, RELATING TO HEALTH CARE INFORMATION

**Written Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

February 22, 2012

1 **Department's Position:** Support.

2 **Fiscal Implications:** None.

3 **Purpose and Justification:** The Department supports this bill because it will serve to facilitate the
4 exchange of health information and simplify an often complex analysis of applicable state privacy laws.
5 The result will be improved patient care, reduced health care costs and enhanced quality of health care
6 operations without compromising privacy protections.

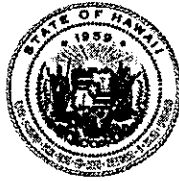
7 The Department believes that this bill is in accord with the Health Insurance Portability and
8 Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical
9 Health (HITECH) Act. These federal regulations promote a system to enhance the quality of patient
10 care while reducing instances of duplicative services and protecting patient privacy. This bill moves in
11 the direction set by both HIPAA and the HITECH Act.

12 This bill promotes sharing health information in a timely and safe manner while improving
13 patient care and outcomes, reducing health cost, and enhancing oversight of healthcare operations. It
14 also helps pave the way for the electronic maintenance and exchange of health information.

1 This bill also will serve to simplify what has become a complicated array of state laws and
2 regulations regarding health care privacy. Often, an involved preemption analysis must be conducted to
3 determine which privacy law is appropriate. While our staff is highly trained and capable, this
4 unnecessary complexity can lead to delays or the application of an incorrect law. This bill will eliminate
5 a significant layer of that complexity.

6 This bill only applies to entities that are already required to comply with HIPAA regulations.
7 HIPAA is the recognized standard in this area; therefore, appropriate protections will still be in place.
8 Furthermore, this bill specifically states that it does not apply to disclosures of health information
9 restricted by federal law or regulations. This means that federal regulations, such as those regarding
10 substance abuse treatment information, must still be followed.

11 The Department supports H.B. 1957 H.D. 1. Thank you for the opportunity to provide testimony
12 on this measure.



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KEALI'I S. LOPEZ
DIRECTOR

PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

AND

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION, 2012

WEDNESDAY, FEBRUARY 22, 2012
2:00 P.M.

TESTIMONY ON HOUSE BILL NO. 1957 H.D.1
RELATING TO HEALTH CARE INFORMATION

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
AND TO THE HONORABLE RYAN I. YAMANE, VICE CHAIR,
AND TO THE HONORABLE KARL RHOADS, VICE CHAIR,
AND MEMBERS OF THE COMMITTEES:

The Regulated Industries Complaints Office ("RICO") of the Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 1957 H.D.1, Relating to Health Care Information. My name is Daria Loy-Goto, RICO's Acting Complaints and Enforcement Officer. RICO offers the following comments.

House Bill No. 1957 H.D.1 provides that individuals and entities governed by the Health Insurance Portability and Accountability Act ("HIPAA") who use or disclose individually identifiable health information consistent with HIPAA regulations are deemed in compliance with State privacy laws and rules.

RICO respectfully requests that the Committees specify the existing State privacy statutes that would be impacted by this bill. Such clarification would assist RICO in establishing a protocol for subpoenaing records and in determining whether a licensee's disclosure conforms to applicable State and federal laws.

Moreover, to the extent that health care licensees have various reporting requirements under State law, identifying the State laws impacted by this bill would clarify for RICO and licensees whether those reporting obligations are affected. For example, §453-8.7, Hawaii Revised Statutes, requires physicians without professional liability insurance to report settlements to the Department.

Thank you for the opportunity to testify on House Bill No. 1957 H.D.1. I will be happy to answer any questions the members of the Committees may have.

**TESTIMONY OF ROBERT TOYOFUKU
ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ)
IN LIMITED OPPOSITION TO H.B. NO. 1957**

Date: Wednesday, February 22, 2012

Time: 2:00 pm

To: Chairmen Robert Herkes & Gilbert Keith-Agaran and Members of the House
Committee on Consumer Protection & Commerce and the Committee on Judiciary:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in LIMITED OPPOSITION to H.B. No. 1957, relating to Health Care Information.

Medical records are routinely utilized in civil/criminal judicial and administrative proceedings. In criminal cases, medical records may be relevant to cause of death, mental capacity and mechanics of injury. In civil cases, medical records are routinely used in personal injury cases. Medical records are also routinely used in administrative proceedings involving workers' compensation, Medicaid, child protection services, and other proceedings involving health and welfare. The use of health care information in these proceedings is also impacted by HIPAA requirements. Our opposition is limited to the unintended application of this measure to judicial and administrative proceedings where the courts and agencies should be given latitude to regulate the use of health information in the manner most suitable for their purposes. The Supreme Court has established guidelines for health care privacy protection in judicial proceedings by both rule and decision. Certain confidential health information must be filed under rule and attorneys are limited in what they can do with health care information obtained in judicial proceedings. A standard form HIPAA compliant protective order developed by an

informal committee of judges, plaintiffs attorneys and defense attorneys is, for example, routinely used by many judges in the First Circuit (Honolulu).

We urge that the measure be amended to include judicial and administrative proceedings among the exempted categories in section 4, and offer the following amendment:

“(8) Limit, apply to or otherwise affect any judicial or administrative proceeding in which an individual’s health information is produced or used in the course of the proceeding; or to limit, apply to or otherwise affect the judiciary or an administrative agency in regulating the use of health information by rule, decision, regulation, order or otherwise.”

Thank you very much for allowing me to testify in LIMITED OPPOSITION to this measure. Please feel free to contact me should you have any questions or desire additional information.



House Committee on Consumer Protection & Commerce
House Committee on Judiciary
Wednesday, February 22, 2012
2:00 p.m.
Room 325

RE: HB 1957, HD1, RELATING TO HEALTH CARE INFORMATION

Good morning, Chair Herkes, Chair Keith-Agaran, Vice Chair Yamane and Vice Chair Rhoads and members of the Committees. On behalf of the Hawaii Chapter, American Physical Therapy Association ("HAPTA"), we are in **support** of HB 1957, HD1, relating to health care information.

This measure clarifies that persons and entities governed by the Health Insurance Portability and Accountability Act, who use or disclose individually identifiable health information that is consistent with the Health Insurance Portability and Accountability Act regulations, shall be deemed to be in compliance with Hawaii's privacy laws and rules.

We believe that this measure is an important step toward ensuring that health care professionals are not liable for potential inconsistencies between federal law and Hawaii laws, which have not yet been harmonized.

HAPTA is a non-profit professional organization serving more than 250 member Physical Therapists and Physical Therapist Assistants. Our mission is to be the principal membership organization that represents and promotes the profession of Physical Therapy in the State of Hawaii.

Mahalo,

Ann Frost, P.T.
Legislative Committee Chair

c/o 841 Bishop Street, Suite 2100, Honolulu, Hawaii 96813



Government Relations

Testimony of
Phyllis Dendle
Director of Government Relations

Before:
House Committee on Consumer Protection and Commerce
The Honorable Robert N. Herkes, Chair
The Honorable Ryan I. Yamane, Vice Chair

House Committee on Judiciary
The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Karl Rhoads, Vice Chair

February 22, 2012
2:00 pm
Conference Room 325

HB1957 HD1 RELATING TO HEALTH CARE INFORMATION

Chairs Herkes and Keith-Agaran and committee members, thank you for this opportunity to provide testimony on HB1957 HD1 which brings into alignment state and federal laws concerning the protection of identifiable health information.

Kaiser Permanente Hawaii supports this bill.

The federal rules regarding privacy under HIPAA have been in effect since April 14, 2003. They have been successful in regulating the use of protected health information. The laws we have in the state of Hawaii have served us well but are not in alignment with federal laws which can cause confusion and can limit the appropriate use of health information. The bill before you proposes to harmonize this difference in laws. This will improve the efficiency of the use of information while still providing protections for the individual patient. We urge you to pass this bill.

Thank you for your consideration.

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Honolulu, Hawaii 96813
Telephone: 808-432-5210
Facsimile: 808-432-5906
Mobile: 808-754-7007
E-mail: phyllis.dendle@kp.org

National Alliance on Mental Illness (NAMI) Hawaii
Executive Director: Kathleen Hasegawa

Testimony In Support of HB1957 HD1 Relating to Health Care Information

House Committee on Consumer Protection and Commerce
House Committee on Judiciary
Wednesday, February 22, 2012, 2 p.m.
Conference Room 325

Representative Robert Herkes, Chair
Representative Gilbert S.C. Keith-Agaram, Chair

Aloha Members of the House Committees on Consumer Protection and Commerce and Committee on Judiciary.

NAMI Hawaii is strongly in support of this bill. The National Alliance on Mental Illness Hawaii (NAMI Hawaii) a State Organization of the National Alliance on Mental Illness ("NAMI") and is dedicated to improving the quality of life of all whose lives are affected by mental illnesses through support, education, advocacy, and research. NAMI Hawaii is strongly in support of this bill.

Currently, restrictive laws, that were developed in Hawaii prior to the Federal HIPA laws, keep the State divisions, doctors and other important parties from being able to share information that is important to the treatment of people with severe mental illnesses. It is vital that the various entities be able to share relevant information. As it currently stands each agency has to start from the ground up, a process that is time consuming and often daunting.

Please pass bill HB 1957 HD1 Relating to Health Care Information.

Thank you.

Kathleen Hasegawa
Executive Director NAMI Hawaii
770 Kapiolani Blvd. Ste 613
Honolulu, HI 96813



**HAWAII HEALTH
INFORMATION CORPORATION**
Hawaii's source of healthcare data

www.hhic.org
phone: 808.534.0288
fax: 808.534.0292

February 21, 2012

Rep. Robert N. Herkes, Chair
House Committee on Consumer Protection and Commerce
and
Rep. Gilbert S.C. Keith-Agaran, Chair
House Committee on Judiciary

Hawaii State Legislature
State Capitol
Honolulu, HI 96813

Chairs Herkes and Keith-Agaran:

The Hawaii Health Information Corporation supports the intent of HB 1957, HD1 – RELATING TO HEALTH CARE INFORMATION. HB 1957, HD1 seeks to harmonize existing Hawaii statutes relating to the privacy and sharing of health care records into conformance with federal HIPAA requirements, as amended by the American Recovery and Reinvestment Act. This is very important for two reasons.

First, the plethora of approximately fifty statutory references to privacy is difficult for providers to understand and use. Bringing all into conformance with HIPAA will provide providers with the ability to more easily comply with one set of standards. Second, a single set of HIPAA compliant statutes will facilitate the exchange of clinical information by providers through the Hawaii Health Information Exchange (HHIE). By allowing for clinical information to be exchanged easily, more information will be available to providers of care, improving the quality of care to the patient.

We recommend two technical changes to HB 1957, HD 1.

First, we suggest that section -3 of the measure be amended by adding a subsection (3), worded as follows, which mirrors the language in the original HB 1957:

“(3) Any notification of breach of unsecured protected health information that is provided in a complete and consistent manner with HIPAA regulations regarding notification of breach of unsecured protected health information under 45 C.F.R. Part 164, Subpart D, shall be deemed to be in compliance with all state laws and rules governing notice of breach for protected health information.”

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This will establish HIPAA breach processes as the single set of standards for breaches of individually identifiable health information in Hawaii.

Second, we recommend deletion of subsection -4 (a) (7). This subsection, as worded, exempts Hawaii statutes relating to breach protection from the single set of standards proposed in HB 1957, HD 1. This is inconsistent with establishing a single set of rules for privacy and the protection of personal health information.

With these changes, which we understand are also being submitted by the Hawaii Health Information Exchange, HHIC strongly supports HB 1957, HD 1 and recommends its passage.

Sincerely,



Peter A. Sybinsky, Ph.D.
President & CEO

Testimony for HB1957 on 2/22/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 1:41 PM
To: CPCtestimony
Cc: bsiegfried@hawaiihiie.org
Attachments: HHIE Testimony in Support ~1.pdf (187 KB)

Testimony for CPC/JUD 2/22/2012 2:00:00 PM HB1957

Conference room: 325
Testifier position: Support
Testifier will be present: Yes
Submitted by: Beth Siegfried
Organization: Hawaii Health Information Exchange
E-mail: bsiegfried@hawaiihiie.org
Submitted on: 2/21/2012

Comments:

February 21, 2012

The Honorable Robert N. Herkes, Chair
The Honorable Ryan I. Yamane, Vice Chair
House Committee on Consumer Protection & Commerce

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Karl Rhoads, Vice Chair
House Committee on Judiciary

Re: HB1957, HD1 (HSCR47-12) – Relating to Health Care Information.

Honorable Chairs Herkes and Keith-Agaran, Vice Chairs Yamane and Rhoads, and Members of the Committees:

Hawai'i Health Information Exchange (Hawai'i HIE) strongly supports HB1957 – Relating to Health Care Information, which is intended to harmonize the laws that govern the exchange of personal health data.

We appreciate the Department of Health's (DOH) support of this bill and its intent. Hawai'i HIE agrees that consistency throughout the bill is of the utmost importance and recognizes the DOH's concerns about the sections regarding notice of breach procedures. We acknowledge the need to eliminate any inconsistencies, but suggest that goal is best met by retaining the original section 3(3)

3(3) Any notification of breach of unsecured protected health information that is provided in a complete and consistent manner with HIPAA regulations regarding notification of breach of unsecured protected health information under 45 Code of Federal Regulations Part 164, Subpart D, shall be deemed to be in compliance with all state laws and rules governing notice of breach for protected health information.

and deleting the current section 4(7).

4(7) Limit or otherwise affect any state law or rules requiring notification of other security or privacy breaches.

This accomplishes the desired goal of harmonizing notice of breach procedures, so that entities governed by HIPAA do not need to be trying to comply with conflicting state and federal procedures for notice of breach of personal health information.

All entities that are not subject to HIPAA and are not governed by HB1957 will continue to be subject to all notice of breach procedures under state law.

Thus, we urge that the original section 3(3) be retained and that the current section 4(7) be deleted, so that health care providers and other entities governed by HIPAA will only need to comply with HIPAA's notice of breach procedures in the event of a breach of protected health information.

Hawai'i HIE understands the needs of the health care community to be able to safely and securely share personal health information in order to provide the finest and most efficient care to Hawai'i's patients. For the aforementioned reasons, Hawai'i HIE strongly supports HB1957 and respectfully submits HD2.

The Hawai'i Health Information Exchange (Hawai'i HIE) is a 501(c)(3) non-profit established in 2006 by leading health care stakeholders in Hawai'i for the purpose of improving health care delivery throughout the state through seamless, effective, and secure health information exchange. In September

of 2009, Hawai'i HIE was designated by the state to develop and implement a statewide health information exchange, which will ultimately feed into the national health information network.

Christine Mai'i Sakuda



Executive Director
Hawai'i Health Information Exchange

STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO HEALTH CARE INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the privacy of
2 patients' individually identifiable health information has been
3 greatly enhanced by the Health Insurance Portability and
4 Accountability Act of 1996, hereinafter referred to as "HIPAA",
5 and related federal laws and regulations. The federal
6 regulatory scheme encourages the use of electronic transmission
7 of individually identifiable health information in a more secure
8 setting, such as through a health information exchange that
9 allows health care information to be shared among health care
10 providers in a more timely and secure manner, with important
11 benefits for patients. A secured health information exchange
12 system will give Hawaii providers prompt access to vital health
13 care information at the point of care, resulting in better
14 treatment decisions, improved patient outcomes, reduced health
15 care costs, and enhanced quality and oversight over health care.
16

H.B. NO.

1 The legislature believes that the safety and protection of
2 the health care consumer is paramount, particularly with respect
3 to consumer health care information. At the same time, an ideal
4 health care system requires an efficient exchange of information
5 about patients' health care. The Health Information Technology
6 for Economic and Clinical Health Act promotes the development of
7 statewide health care information architecture that allows
8 health care providers to share health care information, improve
9 health care consumer safety, and reduce redundant tests and
10 procedures, thereby leading to an overall reduction of health
11 care costs, while maintaining the privacy and confidentiality of
12 information in accordance with federal law.

13 The legislature further finds that Hawaii's health care
14 system is hampered from achieving the timely exchange of
15 individually identifiable health information, in part because
16 Hawaii has over fifty different laws and rules governing health
17 care privacy restricting the exchange of health care information
18 in the new settings. This complex array of state laws and
19 rules, created prior to the enactment of HIPAA, unduly burdens
20 health care providers who attempt to share or access critical
21 information at the point of care and imposes unnecessary
22 administrative costs and a regulatory burden on Hawaii's health

HB 1957 - PROP HD2 (a)

HB 1957 - PROP HD2 (a)

HB 1957 - PROP HD2 (a)

H.B. NO.

1 care system. The legislature believes it is necessary to
2 integrate the various laws and rules affecting Hawaii's health
3 care into a well-coordinated scheme of state and federal privacy
4 protections.

5 The legislature further finds that HIPAA and its related
6 regulations provide a comprehensive regulatory scheme to protect
7 the privacy of patients' individually identifiable health
8 information, while allowing reasonable access by health care
9 providers, health plans, and health-oversight agencies.

10 The purpose of this Act is to clarify that persons and
11 entities governed by HIPAA, who use or disclose individually
12 identifiable health information consistent with HIPAA
13 regulations, shall be deemed to be in compliance with Hawaii's
14 privacy laws and rules.

15 SECTION 2. The Hawaii Revised Statutes is amended by
16 adding a new chapter to be appropriately designated and to read
17 as follows:

"CHAPTER

HEALTH CARE PRIVACY HARMONIZATION ACT

20 § -1 Short title. This chapter shall be known as the
21 "Health Care Privacy Harmonization Act".

22 § -2 Definitions. As used in this chapter:
HB 1957 - PROP HD2 (a)
HB 1957 - PROP HD2 (a)
HB 1957 - PROP HD2 (a)

H.B. NO.

1 "Business associate" means a business associate as defined
2 by the Health Insurance Portability and Accountability Act (45
3 C.F.R. 160.103), or as may be amended.

4 "Covered entity" means a covered entity as defined by the
5 Health Insurance Portability and Accountability Act (45 C.F.R.
6 160.103), or as may be amended.

7 "HIPAA" means the Health Insurance Portability and
8 Accountability Act (42 U.S.C. 201 et seq.), or as may be
9 amended.

10 "Individually identifiable health information" means
11 individually identifiable health information as defined by the
12 Health Insurance Portability and Accountability Act (45 C.F.R.
13 160.103).

14 Other capitalized terms used in this chapter shall have the
15 same meaning as defined in HIPAA.

16 § -3 Privacy of individually identifiable health
17 information. Notwithstanding any law to the contrary:

18 (1) Any use or disclosure of individually identifiable health
19 information by any covered entity or business associate that is
20 permitted by HIPAA regulations regarding privacy of individually
21 identifiable health information under 45 Code of Federal

22 Regulations Part 164, Subpart E, shall be deemed to be in

HB 1957 - PROP HD2 (a)

HB 1957 - PROP HD2 (a)

HB 1957 - PROP HD2 (a)

H.B. NO.

1 compliance with all state laws and rules governing the use,
2 disclosure, or confidentiality of such information;

3 (2) An authorization for release of individually identifiable
4 health information that follows the structure under 45 Code of
5 Federal Regulations 164.508 shall be deemed to be in compliance
6 with all state laws and rules governing individual
7 authorization; and

8 (3) Any notification of breach of unsecured protected health
9 information that is provided in a complete and consistent manner
10 with HIPAA regulations regarding notification of breach of
11 unsecured protected health information under 45 Code of Federal
12 Regulations Part 164, Subpart D, shall be deemed to be in
13 compliance with all state laws and rules governing notice of
14 breach for protected health information.

15 § -4 Relationship to other laws. (a) Nothing in this
16 chapter shall be construed to:

17 (1) Authorize the disclosure of individually identifiable
18 health information to the extent that disclosure is restricted
19 by federal law or regulations, including the confidentiality of
20 alcohol and drug abuse patient records under 42 Code of Federal
21 Regulations Part 2;

22

HB 1957 - PROP HD2 (a)
HB 1957 - PROP HD2 (a)
HB 1957 - PROP HD2 (a)

H.B. NO.

(2) Require the disclosure of individually identifiable health information that is not required by law to be disclosed;

(3) Require a written authorization for release of individually identifiable health information or de-identified information to the extent that HIPAA does not require such authorization;

(4) Limit or otherwise affect any state law or rules requiring a person or entity to report disease, injury, child and elder abuse, domestic violence, birth, or death;

(5) Limit or otherwise affect any state law or rules governing public health surveillance, investigation, or intervention; or

(6) Limit or otherwise affect health plan reporting, such as for state-required management or financial ~~[audits, or]~~ audits.

~~[(7) Limit or otherwise affect any state law or rules requiring notification of other security or privacy breaches.]~~

(b) No law enacted after shall limit the applicability of this chapter unless the law expressly references and amends this chapter."

SECTION 3. The revisor of statutes shall insert the effective date of this Act in the appropriate place in section 2 of this Act.

SECTION 4. This Act shall take effect upon its approval.

HB 1957 - PROP HD2 (a)
HB 1957 - PROP HD2 (a)
HB 1957 - PROP HD2 (a)

H.B. NO.

1

2

INTRODUCED BY: _____

HB 1957 - PROP HD2 (a)
HB 1957 - PROP HD2 (a)
HB 1957 - PROP HD2 (a)

H.B. NO.

Report Title:

Health Care Information; Privacy

Description:

Clarifies that persons and entities governed by the Health Insurance Portability and Accountability Act (HIPAA), who use or disclose individually identifiable health information that is consistent with HIPAA regulations, shall be deemed to be in compliance with Hawaii's privacy laws and rules. (HB1957 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 22, 2012

The Honorable Robert N. Herkes, Chair
The Honorable Gilbert S.C. Keith Agaran, Chair
House Committees on Consumer Protection & Commerce and Judiciary

Re: HB 1957, HD1 – Relating to Health Care Information

Dear Chair Herkes, Chair Keith-Agaran and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of HB 1957, HD1, which clarifies that the use and or disclosure of certain health information consistent with federal Health Insurance Portability and Accountability Act (HIPAA) regulations, is deemed to be in compliance with Hawaii's privacy laws and rules.

Critical to Hawaii's success in creating an efficient health care system is the need for each individual's health care information to be efficiently shared amongst those persons and entities involved with the individual's health care. However, that efficiency must be balanced against the imperative to protect the individual's privacy. While HIPAA secured those privacy needs for each patient's personal health information with absolute, stringent requirements, the State has on its books a series of laws and rules governing that same set of information. That overlap creates an unnecessary burden for those involved with an individual's health care who need to share that information in an efficient manner. That has frustrated efforts to streamline the health care information system and, ultimately, delays efforts to make the health care system more cost effective and efficient. HB 1957, HD1 simply acknowledges that use of a patient's health care information in compliance with HIPAA's rigorous regulations also meets the requirements of our State's privacy laws and rules.

We understand the Hawaii Health Information Exchange (HHIE) is proposing an HD2 draft for HB 1057, HD1, to further clarify that this legislation is limited to entities covered by the HIPAA regulations. The HHIE has made tremendous strides over the last two years to create that efficient, yet secure, system for the exchange of patients' health care information. HB 1957, HD1, and the proposed HD2 amendment, will do much to reduce potential hurdles to achieving that goal.

Thank you for allowing us to testify in support of this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal flourish extending to the right.

Jennifer Diesman
Vice President, Government Relations



Hawaii Association of Health Plans

February 22, 2012

The Honorable Robert N. Herkes, Chair
The Honorable Gilbert S.C. Keith-Agaran, Chair

House Committees on Consumer Protection & Commerce and Judiciary

Re: HB 1957 HD1 – Relating to Health Care Information

Dear Chair Herkes, Chair Keith-Agaran, and Members of the Committees:

My name is Richard Jackson and I am chair of the Public Policy Committee of the Hawaii Association of Health Plans (HAHP). HAHP is a non-profit organization consisting of eight (8) member organizations: AlohaCare, HMAA, HMSA, HWMG, Kaiser Permanente, MDX Hawai'i, UHA, and UnitedHealthcare. Our mission is to promote initiatives aimed at improving the overall health of Hawaii. HAHP is also active participants in the legislative process. Before providing any testimony, all HAHP member organizations must be in unanimous agreement of the statement or position.

We appreciate the opportunity to provide testimony in support of HB 1957 HD1 which clarifies that the use or disclosure of health information in a way consistent with the regulations of the federal Health Insurance Portability and Accountability Act (HIPAA) is also in compliance with Hawaii's own privacy regulations.

HIPAA stringently regulates the use and disclosure of personal health information. Currently, the State also has its own set of regulations governing health care information privacy. Such protected information occasionally needs to be shared with other individuals and entities in order to facilitate appropriate health care. While it is imperative that this information is shared efficiently, it is also of utmost important to protect this personal health information. The combination of the federal and state regulations can create unnecessary difficulties and confusion when requesting important protected health information.

HB 1957 HD1 states that if private health information is disclosed in a way that is sufficient to HIPAA's regulations, it will also comply with the State's regulations. We believe that by streamlining these regulations, the health care system will become more efficient for the people of Hawaii.

We appreciate the opportunity to testify in support of HB 1957 HD1 today. Thank you.

Sincerely,

Richard Jackson
Chair, Public Policy Committee



HAWAII DISABILITY RIGHTS CENTER

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: info@hawaiidisabilityrights.org Website: www.hawaiidisabilityrights.org

THE HOUSE OF REPRESENTATIVES THE TWENTY-SIXTH LEGISLATURE REGULAR SESSION OF 2012

Committee on Consumer Protection and Commerce Committee on Judiciary Testimony in Support of H.B. 1957, HD1 Relating to Health Care Information

**Wednesday, February 22, 2012, 2:00 P.M.
Conference Room 325**

Chair Herkes, Chair Keith-Agaran and Members of the Committees:

The Hawaii Disability Rights Center testifies in support of this bill.

Certainly the right of privacy is as important to individuals with disabilities as it is to anyone else. Yet, it is true that the myriad of laws designed to protect this right of privacy have often been an obstacle to our obtaining records or other information that we need to assist these individuals. For that reason, we believe that a streamlining and a simplification of the process would actually be beneficial because it would increase our ability to provide better representation of our clients. The Federal HIPAA law is already sufficiently stringent so that there is little value in a state law that may be either more stringent or slightly different in a way that results in more confusion than benefit.

The current bill appears to be a work in progress and it may take further refinement to identify and clarify all the issues that need to be addressed. However, we definitely support the concept of what this bill is attempting to accomplish and would be happy to assist in any way.

Thank you for the opportunity to testify in support of this measure.





HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Rep. Robert N. Herkes, Chair

HOUSE COMMITTEE ON JUDICIARY
Rep. Gilbert S.C. Keith-Agaran, Chair

Conference Room 325
February 22, 2012 at 2:00 p.m.

Supporting HB 1957 HD 1: Relating to Health Care Information

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. In their efforts to provide quality care to all of Hawaii's residents, our members employ over 40,000 people. Thank you for this opportunity to testify in support of HB 1957 HD 1, which creates an effective regulatory structure for managing health care information.

The health care system is very complex, and much information is transmitted among the various organizations within the system. Patient confidentiality is of paramount importance, but information needs to flow through the system efficiently to ensure that care is provided on a timely basis, that payment is made for care, and that government entities responsible for monitoring health care receive the necessary information.

The federal Health Insurance Portability and Accountability Act (HIPAA) governs the transmission of individually identifiable health information between health care providers, insurers, and other organizations that depend on such information. The State also has regulations that govern the transmission of such information.

Unfortunately, State and federal regulations are not always aligned, and as such there can be confusion about the interpretation of the regulations. This confusion can result in medical information not being optimally shared among organizations. This bill harmonizes state regulations governing the disclosure of medical information with federal legislation.

Thank you for the opportunity to testify in support of HB 1957 HD 1.